

**Application No.:** 10/623,193  
**Filing Date.:** July 18, 2003

## **REMARKS**

In response to the Office Action mailed August 2, 2007, the Applicants respectfully request the Examiner to reconsider the above-captioned application in view of the foregoing amendments and the following remarks.

### ***Summary of the Office Action***

In the August 2, 2007 Office Action, Claims 18-23, 26, 31, 35-41 and 43 stand rejected as being unpatentable over U.S. Patent No. 5,527,312, issued to Ray, in view of U.S. Patent No. 5,569,248, issued to Mathews (hereinafter "Ray in view of Mathews"). Further, Claims 24, 25 and 27 were withdrawn from consideration. Nevertheless, Claims 44-72 were allowed, and the Examiner indicated that Claims 32-34 and 42 would be in condition for allowance if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Summary of the Amendment***

Upon entry of this amendment, Applicants will have amended Claims 18 and 33-34. Applicants will have canceled Claims 31-32 and added new Claims 73-94. By this amendment, the Applicants respond to the Examiner's comments and rejections made in the August 2, 2007 Office Action. Please note that in the amendments to the claims, deletions are indicated by strikethrough (e.g. ~~deletion~~) or double brackets (e.g. [[word]]) and additions to the claims are underlined (e.g. addition). Applicants respectfully submit that the present application is now in condition for acceptable.

### ***Traversal of Rejection under 35 U.S.C. § 103(a)***

In the Office Action, Claims 18-23, 31, 35-41 and 43 stand rejected under 35 U.S.C. § 103(a), as being unpatentable over Ray in view of Mathews. While Applicants reserve the right to prosecute these claims as originally filed, Applicants have amended Claim 18 in order to expedite prosecution of this Application. In particular, Applicants have amended Claim 18 to incorporate the features of objected-to dependent Claim 32, as well as its intervening Claim 31, into independent Claim 18. Accordingly, Applicants respectfully request that the rejection of

**Application No.:** 10/623,193  
**Filing Date.:** July 18, 2003

Claim 18, as well as Claims 19-23, 26, and 33-43 be withdrawn and that these claims be indicated as allowable over the art of record.

***Allowed Claims 44-72***

Applicants gratefully acknowledge the allowance of Claims 44-72.

***New Claims 73-94***

Applicants also hereby submit new Claims 73-94 for consideration. Applicants rewrote objected-to Claim 42 and its base claim, Claim 18, as new independent Claim 73. Accordingly, Applicants submit that Claim 73 is allowable. Thus, Applicants respectfully request that the Examiner indicate the allowance of new Claims 73-94.

***Withdrawn claims***

Applicants note that Claims 24, 25 and 27 stand withdrawn in response to a restriction requirement. These claims depend upon generic allowable Claim 18 and Applicant respectfully respect that these claims be considered and allowed.

**Co-Pending Applications of Assignee**

Applicant wishes to draw the Examiner's attention to the following co-pending applications of the present application's assignee.

<b>Serial Number</b>	<b>Title</b>	<b>Filed</b>
11/199516	PROXIMAL ANCHORS FOR BONE FIXATION SYSTEM	8/8/2005
11/444103	LOCKING PLATE FOR BONE ANCHORS	5/31/2006
10/7609671	DEPLOYMENT TOOL FOR DISTAL BONE ANCHORS WITH SECONDARY COMPRESSION	3/1/04
10/7906670	TOOL FOR BONE FIXATION	3/1/04
11/623270	METHOD AND APPARATUS FOR SPINAL FIXATION	1/15/07
11/623290	METHOD AND APPARATUS FOR SPINAL FIXATION	1/15/07
11/099431	PROXIMAL ANCHORS FOR BONE FIXATION SYSTEM	4/5/05
11/036781	GUIDANCE SYSTEM FOR SPINAL STABILIZATION	1/14/05

**Application No.:** 10/623,193  
**Filing Date.:** July 18, 2003

11/056991	METHOD AND APPARATUS FOR SPINAL STABILIZATION	2/11/05
11/185442	METHOD AND APPARATUS FOR SPINAL STABILIZATION	7/20/05
11/296881	METHOD AND APPARATUS FOR SPINAL STABILIZATION	12/8/05
11/050975	METHOD AND APPARATUS FOR SPINAL FUSION	2/4/05
10/830631	METHOD AND APPARATUS FOR BONE FIXATION WITH SECONDARY COMPRESSION	4/23/04

*No Disclaimers or Disavowals*

Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, the Applicants are not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application. The Applicants reserve the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that the Applicants have made any disclaimers or disavowals of any subject matter supported by the present application.

**CONCLUSION**

Applicants respectfully submit that the above rejections and objections have been overcome and that the present application is now in condition for allowance. Therefore, the Applicants respectfully request that the Examiner indicate that Claims 18-23, 26, 33-94 are now acceptable and allowed. Accordingly, early issuance of a Notice of Allowance is most earnestly solicited.

Applicants respectfully submit that the claims are in condition for allowance in view of the above remarks. Any remarks in support of patentability of one claim, however, should not be imputed to any other claim, even if similar terminology is used. Additionally, any remarks referring to only a portion of a claim should not be understood to base patentability on that

**Application No.:** 10/623,193  
**Filing Date.:** July 18, 2003

portion; rather, patentability must rest on each claim taken as a whole. Applicants respectfully traverse each of the Examiner's rejections and each of the Examiner's assertions regarding what the prior art shows or teaches, even if not expressly discussed herein. Although amendments have been made, no acquiescence or estoppel is or should be implied thereby. Rather, the amendments are made only to expedite prosecution of the present application, and without prejudice to presentation or assertion, in the future, of claims on the subject matter affected thereby. Applicants also have not presented arguments concerning whether the applied references can be properly combined in view of, among other things, the clearly missing elements noted above, and Applicants reserve the right to later contest whether a proper motivation and suggestion exists to combine these references.

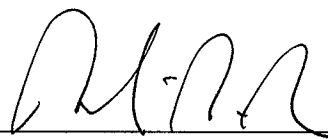
The undersigned has made a good faith effort to respond to all of the rejections in the case and to place the claim and drawings in condition for immediate allowance. Nevertheless, if any undeveloped issues remain or if any issues require clarification, the Examiner is respectfully requested to call the Applicants' attorney in order to resolve such issue promptly.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: 11-2-07

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